

RECEIVED JUL 11 1990

MONNYE R. GROSS
ATTORNEY & COUNSELOR AT LAW
P.O. BOX 11835
CLAYTON, MISSOURI 63105

314-991-0807

JURIS DOCTOR, MASTER OF
LAWS, LL.M., IN TAXATION

ADMITTED IN ILLINOIS,
PENNSYLVANIA & MISSOURI

July 5, 1990

Peter Montague, Ph.D., Editor
Environmental Research Foundation
P.O. Box 3541
Princeton, NJ 08543-3541

Re: William R. Gaffey, Ph.D.

Dear Dr. Montague:

Please be advised that I represent William R. Gaffey, Ph.D.,
President of William R. Gaffey, Inc.

In your newsletter "Rachel's Hazardous Waste News" #171 dated
March 7, 1990 you published several false and defamatory
statements about the work that William R. Gaffey and Judy Zack
allegedly did in connection with the health effect of
occupational dioxin exposure. Mr. Gaffey demonstrated the
falsehoods to you by letters dated April 4, 1990, April 23, 1990
and May 11, 1990, and included supporting data. To date he has
received neither a reply to his letter of May 11, 1990 nor a
retraction.

Liability for trade libel results from the publication of false
and defamatory statements about a person's business, trade or
profession. Specifically, the tort of defamation is a false
communication which injures a person's reputation. False
statements that disparage another in the conduct of his business,
trade or profession give rise to liability without proof of
special damages. Mr. Gaffey may recover damages from you for
defamation even without proving actual loss of trade. In
addition, Mr. Gaffey may recover damages for the loss of business
that he can establish with reasonable certainty. Statements, such
as those in your newsletter, which interfere with Mr. Gaffey's
prospective and existing business and contractual relationships
also constitute tortious conduct for which you may be held
liable. Furthermore, the tort of disparagement or injurious
falsehood imposes liability for the publication of a false
statement that results in harm to another's interests which have
pecuniary value. The torts of defamation, interference with
prospective and existing business and contractual relationships
and disparagement involve the imposition of liability for
injuries sustained through publication of false statements.

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Mr. Gaffey has authorized me to take whatever legal action is necessary to protect and restore his reputation and protect his economic interests. In order to avoid litigation which will be expensive and embarrassing to you, Mr. Gaffey is willing to settle this matter if you publish a retraction and pay his legal fees of One Hundred and Fifty Dollars (\$150.00), which have thus far accrued. If the retraction and payment is not forthwith in coming, appropriate legal action will be taken to protect my client from the torts of defamation, disparagement or injurious falsehood and interference with prospective and existing contractual relations. Please be advised that I intend to fully protect my client's interests, to vigorously enforce all of my client's rights and to diligently pursue all legal remedies.

An immediate retraction and payment of Mr. Gaffey's legal fees will be appreciated.

Very truly,

A handwritten signature in cursive script, appearing to read "Monnye R. Gross".

Monnye R. Gross

.MRG/ks

C00203

Dioxin--Part 1

DIOXINS AND CANCER: FRAUDULENT STUDIES

For years, industry scientists have been claiming there's no evidence that dioxins cause cancer in humans. Now there is mounting evidence that such claims rely heavily on studies that are fraudulent. Two companies recently accused of producing fraudulent dioxin-and-health data are Monsanto and BASF.

Monsanto

A scientist with U.S. Environmental Protection Agency (EPA) says Monsanto falsified data in important studies that Monsanto used to support its claim that dioxin does not cause cancer in humans. Dr. Cate Jenkins, a chemist in EPA's Office of Solid Waste and Emergency Response, says EPA itself relied upon Monsanto's fraudulent data in setting health standards for dioxin, and Jenkins has asked the EPA's Science Advisory Board to reopen the matter of EPA's dioxin standards, to take a fresh look at available data.¹

Two important sources of dioxins in the environment are old chemical dumps and the incineration of municipal solid wastes,² which is why EPA is concerned about allowable levels of human exposures to dioxin.

BASF

The British technical journal, *New Scientist*, says, "A new analysis by a West German epidemiologist may have established the first clearcut evidence of a direct link between exposure to dioxins and cancer in humans. Friedemann Rohleder, an independent specialist, has produced a report detailing an unexpectedly high incidence of cancer among workers exposed to dioxins during an industrial accident at a chemicals plant in 1953."³

"The plant, operated by the West German company BASF, made trichlorophenol. Rohleder claims the company presented the data in a way that disguised the cancers," says *New Scientist*.

Background

Each of these claims of fraud relates to an industrial accident in which workers were exposed to dioxins; follow-up medical studies funded by the responsible companies have been published in mainstream scientific journals, claiming to show that no excess cancers have occurred in the dioxin-exposed workers. In fact, excess cancers have occurred, but

it appears that the data have been manipulated to hide the facts.

The Monsanto Case

In 1949, an explosion occurred at a Monsanto chemical factory in Nitro, West Virginia; as a result, many workers in the plant were exposed to the herbicide 2,4,5-T, which was contaminated with dioxin. (This herbicide was later the principal component of Agent Orange, the chemical defoliant used by the U.S. in Viet Nam.) In subsequent years, two Monsanto scientists, J.A. Zack and R. W. Gaffey, studied the exposed workers, comparing their health against the health of a similar group of workers who were not exposed to dioxin or 2,4,5-T.⁴

According to court documents attached to the EPA memo, "Zack and Gaffey deliberately and knowingly omitted 5 deaths from the exposed group and took four workers who had been exposed and put these workers in the unexposed group, serving, of course, to decrease the death rate in the exposed group and increase the death rate in the unexposed group."

Other studies of this same accident were also fraudulent, according to the same court documents, including a study by R.R. Suskind published in the *Journal of the American Medical Association*.⁵ "This published study of the workers exposed in the 1949 accident reported only 14 cancers in the exposed group and 6 in the unexposed group (a smaller cohort). However, the medical records produced [by Monsanto] to the Plaintiffs conclusively prove gross miscalculations and omissions... there were 28 cancers in the group that had been exposed to dioxins in 1949 as opposed to only 2 cancers in the unexposed group." Mr. Suskind published two other reports^{6,7} on the same accident, using his same data, to reach the conclusion that dioxin does not cause cancer.

The BASF Case

On the night of November 17, 1953, a runaway chemical reaction spewed dioxin-contaminated chemicals over workers and community residents of two small German cities, Mannheim and Ludwigshafen. Subsequently, an epidemiological study was used to deny workers any compensation for ailments they claimed they suffered as a result of exposure. In keeping with German law, the workers retained their own expert to review the data. Their expert, Friedemann Rohleder, received the data from the German government but found, to his surprise, that all the data

actually came from the BASF company itself. He analyzed the data and found that some workers suffering from chloracne, which is universally acknowledged to be evidence of high exposure to dioxin, had been placed in the low-exposure or non-exposed group. He found evidence of "diluting" the exposed group with 20 plant supervisory staff who, Rohleder believes, were not exposed. When Rohleder omitted the 20 supervisory staff, his analysis revealed statistically significant increases in two groups of cancers: cancers of the respiratory organs (lungs, trachea, etc.), and cancers of the digestive tract. "This analysis adds further evidence to an association between dioxin exposure and human malignancy," Rohleder told *New Scientist*.

[To be continued.]

¹Cate Jenkins, "Memo to Raymond Loehr: Newly Revealed Fraud by Monsanto in an Epidemiological Study Used by EPA to Assess Human Health Effects from Dioxins," dated February 23, 1990. Jenkins is a chemist with the Waste Characterization Branch (OS 332), Characterization and Assessment Division, U.S. EPA, 401 M St., SW, Washington, DC 20460. Loehr is Chairperson of the Executive Committee of the Science Advisory Board (A-101), Office of the Administrator, U.S. EPA, 401 M St., SW, Washington, DC 20460. The Jenkins memo has attached to it 25 pages of a brief filed in Case No. 5-88-0420, in the Appellate Court of Illinois, Fifth District by attorneys suing Monsanto on behalf of plaintiffs who say they were harmed when a Norfolk and Western railroad tank car derailed, spilling 19,000 gallons of a Monsanto chemical called "OCP-crude" into the community of Sturgeon, Missouri the night of January 10, 1979. Chief attorney for the plaintiffs is Rex Carr, 412 Missouri Avenue, East St. Louis, IL 62201; phone (618) 274-0434. Our thanks to Margo Blackwell, People Against the Incinerator (PATI), Bloomington, Indiana, and to EPA official William Sanjour, both of whom independently sent us the information about

Monsanto. We can mail copies of the Jenkins memo and attachments (28 pages) for \$14.00, which covers our actual costs of photocopying, handling and mailing.

²Oak Ridge National Laboratory. *Toxicological Profile for 2,3,7,8-Tetrachlorodibenzo-p-dioxin* [ATSDR/TP-88/23; PB89-214522] (Springfield, VA: National Technical Information Service, June, 1989), pg. 22, identifies dumps and incinerators as "the important sources of 2,3,7,8-TCDD exposure to the general population." This is the Agency for Toxic Substances and Disease Registry [ATSDR] toxicological profile for dioxin (See *RHWN* #169.)

³ Stephanie Wanchinski, "New Analysis links dioxin to cancer," *New Scientist* October 28, 1989, pg. 24. Thanks to Paul Connett of Work on Waste USA, we have a copy of Friedemann Rohleder's paper, which he presented in late September at a dioxin conference in Toronto, Ontario; Rohleder's paper is entitled "Dioxins and Cancer Mortality—Reanalysis of the BASF Cohort." We can mail you the 14-page Rohleder paper for \$7.00, or you can request a copy directly from the author: Friedemann Rohleder, Friedrich - Hebel Str. 13, 1712 Werne, West Germany.

⁴ Zack, J.A., and W. R. Gaffey, "A Mortality Study Of Workers Employed At The Monsanto Company Plant In Nitro, West Virginia," *Environmental Science Research*, Vol. 26 (1983), pgs. 575-591.

⁵R.R. Suskind, and V.S. Hertzberg, "Human Health Effects Of 2,4,5-T And Its Toxic Contaminants," *Journal of the American Medical Association*, Vol. 251, No. 18 (1984), pgs. 2372-2380.

⁶R.R. Suskind, "Chloracne, The Hallmark Of Dioxin Intoxication," *Scandinavian Journal of Work, Environment and Health*, Vol. 11, No. 3 (1985), pgs. 165-171.

⁷R.R. Suskind, "Long-Term Health Effects Of Exposure To 2,4,5-T And/Or Its Contaminants," *Chemosphere*, Vol. 12, No. 4-5 (1983), pg. 769.

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